

Application No. 10/020,251  
Amendment dated December 21, 2005  
Reply to Office Action of September 14, 2005

Docket No. CM01990K

### REMARKS/ARGUMENTS

Claims 1-19 remain in the application.

#### Rejection - 35 U.S.C. § 102:

*Claims 1-9 and 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Sato (U.S. Pat. 6,721,433).*

#### Claim Rejections - 35 U.S.C. § 103:

*Claims 10-13 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (U.S. Pat. 6,721,433).*

Applicant respectfully traverses. The cited reference neither teaches nor suggests that which is claimed by Applicant's invention. Applicant's invention provides a device with user definable ear canal depth adjustment. Independent claim 1 recites: "...the second section of the housing rotates with respect to the first section of the housing within a prescribed range of angular displacement as to allow user-definable depth adjustability of at least a portion of the sound delivery tube into an ear canal." Independent claim 18 recites: "...rotating the second section of the housing with respect to the first section within a prescribed range of angular displacement as to allow user-definable depth adjustability of at least a portion of the sound delivery tube into an ear canal." The Sato reference fails to teach or suggest user-definable depth adjustability of at least a portion of the sound delivery tube into an ear canal. In col. 3, lines 60-67, Sato discloses an earphone capsule section (19) sized and shaped so that it can be inserted in the ear... the earphone capsule section 19 ...need not be sized so that it fits in the ear tightly. Capsule section (19) does not provide user-definable depth adjustability into the ear canal. The adjustment taught by Sato relates to pressure pads (23) on the head (30), not adjustability for ear canal depth. Col. 4, lines 15-22 of Sato states that fine adjustments can be made to the lateral pressure exerted by the frame (11) during use, and the point of contact between the user's head and the paddings (23). FIGs. 5 and 6 of Sato clearly show that there is no means for adjusting for ear canal depth. Also, FIG. 8 in conjunction with col. 6, lines 3-19 of Sato describes adjustments of padding (23) coming into contact with the head. Thus, Sato's adjustments apply to the fit across both sides of the head, not to the ear canal depth.

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Accordingly, the rejection of independent claims 1 and 18 is overcome. Claims 2-17 and 19 provide further limitations to what are believed to be allowable claims and hence are also in condition for allowance.

The Applicants believe that the subject application is in condition for allowance. Such action is earnestly solicited by the Applicants.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant's attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

The Commissioner is hereby authorized to charge Deposit Account 502117, Motorola, Inc, with any fees which may be required in the prosecution of this application.

Respectfully submitted,



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